

Town of Amherst
Zoning Board of Appeals - Special Permit

DECISION

Applicant: Joan Hart

Date application filed with the Town Clerk: September 15, 2005

Nature of request: to renew Special Permit FY2003-00042 for a flag lot under Section 6.3 of the Zoning Bylaw

Address: 276 Strong Street (Map 12A, Parcel 57, R-N Zoning District)

Legal notice: Published on September 21st & 28th, 2005 in the Daily Hampshire Gazette and sent to abutters on September 19, 2005.

Board members: Zina Tillona, Barbara Ford and Hilda Greenbaum

Submissions: The petitioner submitted a site plan of the flag lot in the surrounding area and a copy of the FY2003-00042 Special Permit.

Site Visit: October 4, 2005

The Board met the applicant at the site. They observed the shared driveway with two other flag lots, the proximity to the railroad tracks, the power line crossing Strong Street near the driveway, and that the lot slopes downward from west to east towards the railroad tracks..

Public Hearing: October 6, 2005

Ms. Hart represented herself at the hearing. She said that this parcel is the last of the flag lots carved from the original family farmland. A Special Permit for this lot was first given in the early 1990's and has been reviewed regularly since then. Now she has a buyer for the lot, and would like to renew the Special Permit one last time.

The Board reviewed with the petitioner the requirements for flag lots under the Zoning Bylaw, Section 6.3:

- Section 6.32 states that the area of the flag lot, exclusive of the access strip, shall be at least double the minimum lot area required for that district. The R-N district requires 20,000 square feet for lot area; the lot under consideration contains 46,037 square feet exclusive of the pole.
- Section 6.33 states that each lot shall have an access strip with a minimum street frontage of forty feet, a minimum width of forty feet at any point and a maximum length of 400 feet. This access strip is 40 x 400 feet and meets the width requirement for its entirety.

- Section 6.36 states that there shall be no more than three flag lots adjacent to each other at the street line; this lot is the middle of three adjacent flag lots.
- Section 7.703 requires that flag lots with access strips adjacent to each other provide a single common driveway. The shared driveway for the three lots is located on the access strip of the lot under consideration.
- Section 7.712 states that common driveways shall be not less than 16 feet in width. The petitioner stated that this is the case.

Board Chair Ms. Tillona asked if anything had changed since the Board last renewed the 2003 Special Permit for the flag lot. Section 10.37 of the Zoning Bylaw states that Special Permits lapse within two years of issuance if substantial construction has not commenced within that period. Ms. Hart said that nothing had changed in regards to the lot since the last renewal.

The Board reviewed the conditions of the FY2003 Special Permit. They noted that the site plan needs to show not only the building location, grading plan, and driveway, but that a turn around space for emergency vehicles is necessary.

In addition, because a single family house is allowed by right once a Special Permit for a flag lot is given, the condition limiting the lot to a single family house is not necessary. If a two-family house is desired on the lot, another Special Permit would be needed at that time. This Special Permit is to allow for a flag lot to become a legal building lot only.

The prospective buyer of the lot, Jef Sharpe, spoke at the hearing. He said that he has discussed with the neighbors the issue of sharing the responsibility for snow plowing, but that he, as the new owner, will be responsible for the common part of the driveway. He does not have a formal agreement with the neighbors about sharing the cost of paving or driveway maintenance, and does not want that to be an issue in terms of buying the lot.

Hilda Greenbaum moved to close the evidentiary portion of the hearing. Barbara Ford seconded the motion, and the vote was unanimous to close the hearing.

Public Meeting:

The Board noted that this Special Permit has been renewed several times, and meets all the stipulations of the Zoning Bylaw for flag lots.

Findings:

The Board finds under Section 10.38 of the Zoning Bylaw, Specific Findings required of all Special Permits, that:

10.380 & 10.381 – The proposal is suitably located in the neighborhood and compatible with other uses since the district is neighborhood residential and there are other flag lots with houses adjacent to this lot.

10.382, 10.383 & 10.385 – The proposal will not constitute a nuisance to abutters or pedestrians due to pollution, noise or lights since the lot is large, well back from the road,

and surrounded by equally large lots. The homes in the neighborhood are not intrusive to each other or the neighborhood, and one extra home on a flag lot will not change this balance. Exterior lighting on the lot will be downcast.

10.384, 10.387 & 10.388 – Adequate and appropriate facilities will be provided in that a site plan showing the location of the house, the driveway and grading of same, and the turnaround area for emergency vehicles will all be reviewed and approved by the Board prior to construction.

10.386 & 10.387 – The proposal ensures that it is in conformance with parking regulations because the site plan will address adequate parking and turnaround space for emergency vehicles. Likewise the conditions of the permit will ensure that the driveway and parking area will provide sufficient movement within the site for all three properties using the common driveway.

10.389 – The proposal provides adequate methods of disposal since the property is on Town water/sewer, and residences are required to contract for weekly removal of refuse/recyclables.

10.391 – The proposal protects, to the extent feasible, scenic features of the area in that the utilities will be underground and that lighting associated with the house will be downcast.

10.397 – The proposal provides adequate recreational facilities, open space and amenities for the proposed residential use, since the flag lot is double the size required for a frontage lot in a neighborhood residential zone, and it is close to large tracts of conservation land.

10.398 – The proposal is in harmony with the general purpose and intent of the Zoning Bylaw in that it meets all the conditions for a flag lot and will maintain the safety, convenience and well-being of the residents of Amherst.

Zoning Board Decision:

Hilda Greenbaum MOVED to approve the renewal of Special Permit FY2003-00042 for a flag lot, with conditions. Barbara Ford seconded the motion.

For all of the reasons stated above, the Board VOTED to grant a Special Permit for renewal of Special Permit FY2003-00042 for a flag lot under Section 6.3 of the Zoning Bylaw at 276 Strong Street (Map 12A, Parcel 57, R-N Zoning District), as requested by Joan Hart, with conditions.

ZINA TILLONA

BARBARA FORD

HILDA GREENBAUM

FILED THIS _____ day of _____, 2005 at _____,
in the office of the Amherst Town Clerk _____.
TWENTY-DAY APPEAL period expires, _____ 2005.
NOTICE OF DECISION mailed this _____ day of _____, 2005
to the attached list of addresses by _____, for the Board.
NOTICE OF PERMIT or Variance filed this _____ day of _____, 2005,
in the Hampshire County Registry of Deeds.

Town of Amherst
Zoning Board of Appeals

SPECIAL PERMIT

The Amherst Zoning Board of Appeals hereby grants a Special Permit for renewal of Special Permit FY2003-00042 for a flag lot under Section 6.3 of the Zoning Bylaw at 276 Strong Street (Map 12A, Parcel 57, R-N Zoning District), as requested in the application filed by Joan Hart on October 6, 2005. The permit is granted subject to the following conditions:

1. All utilities shall be underground
2. The site plan, grading plan and driveway plan, with building location and location of turnaround for emergency vehicles, shall be approved by the Board at a public meeting prior to issuance of a building permit.
3. All exterior lighting for the house and garage shall be downcast.
4. This Special Permit is subject to Section 14.52 of the Zoning Bylaw, Phased Growth. Development authorization is available as of November, 2005.

ZINA TILLONA, Chair
Amherst Zoning Board of Appeals

DATE